

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
AIKEN DIVISION

Yukia **GRIER**,

Plaintiff,

No: 1:18-cv-01605-RBH

v.

Kilolo **KIJAKAZI**,
Acting Commissioner of Social
Security,

Defendant.

ORDER

Plaintiff, Grier, brought this action to obtain judicial review of a final decision of Defendant Acting Commissioner of Social Security denying Plaintiff's application for a period of disability and disability insurance benefits. See 42 U.S.C. § 405(g). On April 18, 2019, the court remanded the Commissioner's decision pursuant to sentence four of § 405(g) for further administrative proceedings.

This matter now is before the court on Plaintiff's motion for attorney's fees filed on December 11, 2023, for requested fees in the amount of \$38,738.25 of Grier's past due benefits, under the Social Security Act, 42 U.S.C. § 406(b). The government filed a response on

November 12, 2023, and did not oppose Plaintiff's motion.¹ The Plaintiff's attorney has been granted fees by this Court in the amount of \$4,421.88, under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412.

In the United States Supreme Court case of *Gisbrecht v. Barnhart*, 535 U.S. 780 (2002), the Court held that the provision of the Social Security Act limiting attorney fees to 25% of past-due benefits does not displace contingent-fee agreements that are within such statutory ceiling, and instructs courts to review for reasonableness fees yielded by such agreements. In addition, if the claimant has been awarded attorney fees under EAJA, the claimant's attorney must refund the lesser of the two fees to the claimant. *Id.* at 796.

Upon review of the materials submitted to the Court, the undersigned finds that Plaintiff counsel's request for attorney fees is reasonable. Therefore, it is ordered that the Plaintiff's attorney may collect a fee of 25% of plaintiff's past due benefits. Plaintiff's attorney must refund to the Plaintiff the EAJA award of \$4,421.88.

December 12, 2023
Florence, South Carolina

s/R. Bryan Harwell
R. Bryan Harwell
Chief United States District Judge

¹ This Court notes the government's response references the wrong attorney and the wrong amount of attorney's fees requested. *See* ECF No. 30 at p. 1.